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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
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Elaine Johnson

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13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION
16

17 Elaine Johnson,

18
19 Plaintiff,

20 vs.

21 CBE Group, Inc.; and DOES 1-10,
22 inclusive,

23 Defendants.
24
25
26
27
28

CV13-08315-SJO(JLx)
Case No.

COMPLAINT FOR DAMAGES
1. VIOLATION OF THE
TELEPHONE CONSUMER
PROTECTION ACT, 47 U.S.C. § 227,
ET. SEQ.
2. VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION
PRATICES ACT, CAL.CIV.CODE §
1788 *ET. SEQ.*

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

1 For this Complaint, the Plaintiff, Elaine Johnson, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
7

8 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

9 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
10 Defendants transact business here, Plaintiff resides in this judicial district, and a
11 substantial portion of the acts giving rise to this action occurred here.
12

13 **PARTIES**

14 4. The Plaintiff, Elaine Johnson (hereafter "Plaintiff"), is an adult individual
15 residing in Long Beach, California, and is a "person" as defined by 47 U.S.C. §
16 153(10).
17

18 5. Defendant, CBE Group, Inc. ("CBE"), is an Iowa business entity with an
19 address of 1309 Technology Parkway, Cedar Falls, Iowa 50613, and is a "person" as
20 defined by 47 U.S.C. § 153(10).
21

22 6. Does 1-10 (the "Agents") are individual employees and/or agents
23 employed by CBE and whose identities are currently unknown to the Plaintiff. One or
24 more of the Agents may be joined as parties once their identities are disclosed through
25 discovery.
26
27
28

1 7. CBE at all times acted by and through one or more of the Agents.

2
3 **FACTS**

4 8. Within the last year, CBE placed calls Plaintiff on her cellular telephone
5 using a prerecorded or artificial voice to deliver a message in Spanish.

6
7 9. CBE called Plaintiff from a variety of different telephone numbers.

8 10. Plaintiff does not know Spanish and was unable to understand the
9 automated voice.

10
11 11. During several conversations, Plaintiff spoke to a CBE representative
12 who spoke English, and was advised that CBE was attempting to reach someone other
13 than Plaintiff (the “Debtor”) in an attempt to collect a Debt.

14
15 12. Plaintiff advised CBE several times that it was calling the wrong number
16 and that she did not know the Debtor and directed CBE to cease all calls to her.

17
18 13. Despite being advised CBE that it was calling the wrong number and the
19 Debtor could not be reached at her number, CBE continued to place calls to Plaintiff
20 at an annoying and harassing rate.

21
22 14. Plaintiff was forced to change her cellular telephone number in an effort
23 to get the calls to stop. CBE then began placing calls to Plaintiff’s new cellular
24 telephone number, again using an automated voice to deliver a message in Spanish.

25
26 15. Again, Plaintiff spoke to CBE to advise it was the wrong number and
27 instructed CBE to cease all calls.

1 22. The telephone number called by CBE was assigned to a cellular
2 telephone service for which Plaintiff incurs charges for incoming calls pursuant to 47
3 U.S.C. § 227(b)(1).
4

5 23. The calls from CBE to Plaintiff were not placed for “emergency
6 purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).
7

8 24. As a result of each call made in negligent violation of the TCPA, Plaintiff
9 is entitled to an award of \$500.00 in statutory damages for each call in violation of the
10 TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).
11

12 25. As a result of each call made in knowing and/or willful violation of the
13 TCPA, Plaintiff is entitled to an award of treble damages in an amount up to
14 \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).
15

16
17 **COUNT II**
18 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
19 **PRACTICES ACT, Cal. Civ. Code § 1788 *et seq.***

20 26. The Plaintiff incorporates by reference all of the above paragraphs of this
21 Complaint as though fully stated herein.

22 27. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
23 section 1788 *et seq.* (“Rosenthal Act”) prohibits unfair and deceptive acts and
24 practices in the collection of consumer debts.
25

26 28. CBE Group, Inc., in the regular course of business, engages in debt
27 collection and is a “debt collector” as defined by Cal. Civ. Code § 1788.2(c).
28

29. The Defendants caused a telephone to ring repeatedly and engaged the Plaintiff in continuous conversations with an intent to annoy the Plaintiff, in violation of Cal. Civ. Code § 1788.11(d).

30. The Defendants communicated with the Plaintiff with such frequency as to be considered harassment, in violation of Cal. Civ. Code § 1788.11(e).

31. The Defendants failed to comply with the provisions of 15 U.S.C. § 1692, et seq., in violation of Cal. Civ. Code § 1788.13(e).

32. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

33. The Plaintiff is entitled to damages as a result of the Defendants' violations.

COUNT III
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

34. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

35. The Restatement of Torts, Second, § 652B defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

1 36. California further recognizes the Plaintiff's right to be free from
2 invasions of privacy, thus the Defendants violated California state law.

3
4 37. The Defendants intentionally intruded upon Plaintiff's right to privacy by
5 continually harassing Plaintiff with the above referenced telephone calls.

6 38. The telephone calls made by the Defendants to Plaintiff were so
7 persistent and repeated with such frequency as to be considered, "hounding the
8 plaintiff," and, "a substantial burden to her existence," thus satisfying the Restatement
9 of Torts, Second, § 652B requirement for an invasion of privacy.
10

11
12 39. The conduct of the Defendants in engaging in the illegal collection
13 activities resulted in multiple invasions of privacy in such a way as would be
14 considered highly offensive to a reasonable person.
15

16 40. As a result of the intrusions and invasions, the Plaintiff is entitled to
17 actual damages in an amount to be determined at trial from the Defendants.
18

19 41. All acts of the Defendants and its agents were committed with malice,
20 intent, wantonness, and recklessness, and as such, the Defendants are subject to
21 punitive damages.
22

23 **PRAYER FOR RELIEF**

24 WHEREFORE, the Plaintiff prays that judgment be entered against the
25 Defendants:
26
27
28

- 1 A. Statutory damages of \$500.00 for each violation determined to be
2 negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
3
4 B. Treble damages for each violation determined to be willful and/or
5 knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
6
7 C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
8
9 D. Statutory damages of \$1,000.00 for knowingly and willfully committing
10 violations pursuant to Cal. Civ. Code § 1788.30(b);
11
12 E. Actual damages from the Defendants for the all damages including
13 intentional, reckless, and/or negligent invasions of privacy in an amount
14 to be determined at trial for the Plaintiff;
15
16 F. Such other and further relief as may be just and proper.

17 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
18

19 DATED: November 8, 2013

TAMMY HUSSIN

20 
21

22 By: _____
23 Tammy Hussin, Esq.
24 Lemberg & Associates, LLC
25 Attorney for Plaintiff, Elaine Johnson
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge S. James Otero and the assigned Magistrate Judge is Jacqueline Chooljian.

The case number on all documents filed with the Court should read as follows:

2:13-cv-08315-SJO(JCx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

November 8, 2013

Date

By APEDRO
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.